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ABSTRACT

The religious liberty clauses of the First Amendment to the Constitution of the United States are the most important political decision for religious liberty and public justice in history. Two hundred years after their enactment, they stand out boldly in a century darkened by state repression and sectarian conflict. The controversy now surrounding the clauses is a reminder that their advocacy and defense are tasks for each succeeding generation. While acknowledging their deep and continuing differences over religious beliefs, political policies, and constitutional interpretations, the signers of this charter agree that the following principles are in the shared interest of all U.S. citizens: (1) Religious liberty is a precious, fundamental, and inalienable right founded on the inviolable dignity of the person and undergirding all other rights and freedoms secured by the Bill of Rights. (2) The two religious liberty clauses address distinct concerns, but serve the same end, freedom of conscience for citizens of all faiths or none. (3) The 'no establishment' clause separates church from state but not religion from public life. (4) The 'free exercise' clause guarantees the right to reach, hold, exercise, or change beliefs freely. (5) While conflict and debate are vital to democracy, how citizens debate is more critical than what they debate. (6) Citizens must develop, out of their differences, a common vision for the common good. (7) Each person and group must guard for others those rights they wish guarded for themselves. These principles require a fresh consideration in order to sustain a free people that would remain free. (JB)

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The Williamsburg Charter

A National Celebration and Reaffirmation of the First Amendment Religious Liberty Clauses

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Williamsburg, Virginia
June 25th, 1988

"CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF: OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES."

AMENDMENTS, ARTICLE I,
THE CONSTITUTION OF THE UNITED STATES

The Williamsburg Charter

Foundation

The Williamsburg Charter, a celebration and reaffirmation of the First Amendment Religious Liberty clauses, was drafted to mark the 200th anniversary of the Commonwealth of Virginia's call for the Bill of Rights. The Charter is the centerpiece of the Williamsburg Charter Foundation, a private, non-partisan, non-sectarian public policy group concerned with the place of religion in American public life.

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The Williamsburg Charter

Summary of Principles

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ."

The Religious Liberty clauses of the First Amendment to the Constitution are a momentous decision, the most important political decision for religious liberty and public justice in history. Two hundred years after their enactment they stand out boldly in a century made dark by state repression and sectarian conflict. Yet the ignorance and contention now surrounding the clauses are a reminder that their advocacy and defense is a task for each succeeding generation.

We acknowledge our deep and continuing differences over religious beliefs, political policies and constitutional interpretations. But together we celebrate the genius of the Religious Liberty clauses, and affirm the following truths to be among the first principles that are in the shared interest of all Americans:

1. Religious liberty, or freedom of conscience, is a precious, fundamental and inalienable right. A society is only as just and free as it is respectful of this right for its smallest minorities and least popular communities.

2. Religious liberty is founded on the inviolable dignity of the person. It is not based on science or social usefulness and is not dependent on the shifting moods of majorities and governments.

3. Religious liberty is our nation's "first liberty," which undergirds all other rights and freedoms secured by the Bill of Rights.

4. The two Religious Liberty clauses address distinct concerns, but together they serve the same end — religious liberty, or freedom of conscience, for citizens of all faiths or none.

5. The No Establishment clause separates Church from State but not religion from politics or public life. It prevents the confusion of religion and government which has been a leading source of repression and coercion throughout history.

6. The Free Exercise clause guarantees the right to reach, hold, exercise or change beliefs freely. It allows all citizens who so desire to shape their lives, whether private or public, on the basis of personal and communal beliefs.

7. The Religious Liberty clauses are both a protection of individual liberty and a provision for ordering the relationship of religion and public life. They allow us to live with our deepest differences and enable diversity to be a source of national strength.

8. Conflict and debate are vital to democracy. Yet if controversies about religion and politics are to reflect the highest wisdom of the First Amendment and advance the best interests of the disputants and the nation, then *how* we debate, and not only *what* we debate, is critical.

9. One of America's continuing needs is to develop, out of our differences, a common vision for the common good. Today that common vision must embrace a shared understanding of the place of religion in public life and of the guiding principles by which people with deep religious differences can contend robustly but civilly with each other.

10. Central to the notion of the common good, and of greater importance each day because of the increase of pluralism, is the recognition that religious liberty is a universal right joined to a universal duty to respect that right. Rights are best guarded and responsibilities best exercised when each person and group guards for all others those rights they wish guarded for themselves.

We are firmly persuaded that these principles require a fresh consideration, and that the reaffirmation of religious liberty is crucial to sustain a free people that would remain free. We therefore commit ourselves to speak, write and act according to this vision and these principles. We urge our fellow citizens to do the same, now and in generations to come.

The Williamsburg Charter

A National Celebration and Reaffirmation of the First Amendment Religious Liberty Clauses

Williamsburg, Virginia
June 25th, 1988

The Williamsburg Charter

CONTENTS

I. A TIME FOR REAFFIRMATION

1. The Inalienable Right 9
2. The Ever Present Danger 10
3. The Most Nearly Perfect Solution 11

II. A TIME FOR REAPPRAISAL

1. The Issue Is Not Only What We Debate, But How 13
2. The Issue Is Not Sectarian, But National 13
3. The Issue Is Larger Than The Disputants 14
4. The Issue Is Understandably Threatening 14

III. A TIME FOR RECONSTITUTION

1. The Criteria Must Be Multiple 17
2. The Consensus Must Be Dynamic 18
3. The Compact Must Be Mutual 19

RENEWAL OF FIRST PRINCIPLES . . . 23

The Williamsburg Charter

A National Celebration and Reaffirmation of the First Amendment Religious Liberty Clauses

Keenly aware of the high national purpose of commemorating the bicentennial of the United States Constitution, we who sign this Charter seek to celebrate the Constitution's greatness, and to call for a bold reaffirmation and reappraisal of its vision and guiding principles. In particular, we call for a fresh consideration of religious liberty in our time, and of the place of the First Amendment Religious Liberty clauses in our national life.

We gratefully acknowledge that the Constitution has been hailed as America's "chief export" and "the most wonderful work ever struck off at a given time by the brain and purpose of man." Today, two hundred years after its signing, the Constitution is not only the world's oldest, still-effective written constitution, but the admired pattern of ordered liberty for countless people in many lands.

In spite of its enduring and universal qualities, however, some provisions of the Constitution are now the subject of widespread controversy in the United States. One area of intense controversy concerns the First Amendment Religious Liberty clauses, whose mutually reinforcing provisions act as a double guarantee of religious liberty, one part barring the making of any law "respecting an establishment of religion" and the other barring any law "prohibiting the free exercise thereof."

The First Amendment Religious Liberty provisions epitomize the Constitution's visionary realism. They were, as James Madison said, the "true remedy" to the predicament of religious conflict they originally addressed, and they well express the responsibilities and limits of the state with respect to liberty and justice.

Our commemoration of the Constitution's bicentennial must therefore go beyond celebration to rededication. Unless this is done, an irreplaceable part of national life will be endangered, and a remarkable opportunity for the expansion of liberty will be lost.

For we judge that the present controversies over religion in public life pose both a danger and an opportunity. There is evident danger in the fact that certain forms of politically reassertive religion in parts of the world are, in principle, enemies of democratic freedom and a source of deep social antagonism. There is also evident opportunity in the growing philosophical and cultural awareness that all people live by commitments and ideals, that value-neutrality is impossible in the ordering of society, and that we are on the edge of a promising moment for a fresh assessment of pluralism and liberty. It is with an eye to both the promise and the peril that we publish this Charter and pledge ourselves to its principles.

We readily acknowledge our continuing differences. Signing this Charter implies no pretense that we believe the same things or that our differences over policy proposals, legal interpretations and philosophical groundings do not ultimately matter. The truth is not even that what unites us is deeper than what divides us, for differences over belief are the deepest and least easily negotiated of all.

The Charter sets forth a renewed national compact, in the sense of a solemn mutual agreement between parties, on how we view the place of religion in American life and how we should contend with each other's deepest differences in the public sphere. It is a call to a vision of public life that will allow conflict to lead to consensus, religious commitment to reinforce political civility. In this way, diversity is not a point of weakness but a source of strength.

I. A TIME FOR REAFFIRMATION

We believe, in the first place, that the nature of the Religious Liberty clauses must be understood before the problems surrounding them can be resolved. We therefore affirm both their cardinal assumptions and the reasons for their crucial national importance.

With regard to the assumptions of the First Amendment Religious Liberty clauses, we hold three to be chief:

1. The Inalienable Right

Nothing is more characteristic of humankind than the natural and inescapable drive toward meaning and belonging, toward making sense of life and finding community in the world. As fundamental and precious as life itself, this "will to meaning" finds expression in ultimate beliefs, whether theistic or non-theistic, transcendent or naturalistic, and these beliefs are most our own when a matter of conviction rather than coercion. They are most our own when, in the words of George Mason, the principal author of the Virginia Declaration of Rights, they are "directed only by reason and conviction, not by force or violence."

As James Madison expressed it in his Memorial and Remonstrance, "The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right."

Two hundred years later, despite dramatic changes in life and a marked increase of naturalistic philosophies in some parts of the world and in certain sectors of our society, this right to religious liberty based upon freedom of conscience remains fundamental and inalienable. While particular beliefs may be true or false, better or worse, the right to reach, hold, exercise them freely, or change them, is basic and non-negotiable.

Religious liberty finally depends on neither the favors of the state and its officials nor the vagaries of tyrants or majorities. Religious liberty in a democracy is a right that may not be submitted to vote and depends on the outcome of no election. A society is only as just and free as it is respectful of this right, especially toward the beliefs of its smallest minorities and least popular communities.

The right to freedom of conscience is premised not upon science, nor upon social utility, nor upon pride of species. Rather, it is premised upon the inviolable dignity of the human person. It is the foundation of, and is integrally related to, all other rights and

freedoms secured by the Constitution. This basic civil liberty is clearly acknowledged in the Declaration of Independence and is ineradicable from the long tradition of rights and liberties from which the Revolution sprang.

2. The Ever Present Danger

No threat to freedom of conscience and religious liberty has historically been greater than the coercions of both Church and State. These two institutions — the one religious, the other political — have through the centuries succumbed to the temptation of coercion in their claims over minds and souls. When these institutions and their claims have been combined, it has too often resulted in terrible violations of human liberty and dignity. They are so combined when the sword and purse of the State are in the hands of the Church, or when the State usurps the mantle of the Church so as to coerce the conscience and compel belief. These and other such confusions of religion and state authority represent the misordering of religion and government which it is the purpose of the Religious Liberty provisions to prevent.

Authorities and orthodoxies have changed, kingdoms and empires have come and gone, yet as John Milton once warned, "new Presbyter is but old priest writ large." Similarly, the modern persecutor of religion is but ancient tyrant with more refined instruments of control. Moreover, many of the greatest crimes against conscience of this century have been committed, not by religious authorities, but by ideologues virulently opposed to traditional religion.

Yet whether ancient or modern, issuing from religion or ideology, the result is the same: religious and ideological orthodoxies, when politically established, lead only too naturally toward what Roger Williams called a "spiritual rape" that coerces the conscience and produces "rivers of civil blood" that stain the record of human history.

Less dramatic but also lethal to freedom, and the chief menace to religious liberty today, is the expanding power of government control over personal behavior and the institutions of society, when the government acts not so much in deliberate hostility to, but in reckless disregard of, communal belief and personal conscience.

Thanks principally to the wisdom of the First Amendment, the American experience is different. But even in America where state-established orthodoxies are unlawful and the state is constitutionally limited, religious liberty can never be taken for granted. It is a rare achievement that requires constant protection.

3. The Most Nearly Perfect Solution

Knowing well that "nothing human can be perfect" (James Madison) and that the Constitution was not "a faultless work" (Gouverneur Morris), the Framers nevertheless saw the First Amendment as a "true remedy" and the most nearly perfect solution yet devised for properly ordering the relationship of religion and the state in a free society.

There have been occasions when the protections of the First Amendment have been overridden or imperfectly applied. Nonetheless, the First Amendment is a momentous decision for religious liberty, the most important political decision for religious liberty and public justice in the history of humankind. Limitation upon religious liberty is allowable only where the State has borne a heavy burden of proof that the limitation is justified — not by any ordinary public interest, but by a supreme public necessity — and that no less restrictive alternative to limitation exists.

The Religious Liberty clauses are a brilliant construct in which both No establishment and Free exercise serve the ends of religious liberty and freedom of conscience. No longer can sword, purse and sacred mantle be equated. Now, the government is barred from using religion's mantle to become a confessional State, and from allowing religion to use the goverment's sword and purse to become a coercing Church. In this new order, the freedom of the government from religious control and the freedom of religion from government control are a double guarantee of the protection of rights. No faith is preferred or prohibited; for where there is no state-definable orthodoxy, there can be no state-punishable heresy.

With regard to the reasons why the First Amendment Religious Liberty clauses are important for the nation today, we hold five to be preeminent:

1. The First Amendment Religious Liberty provisions have both a logical and historical priority in the Bill of Rights. They have logical priority because the security of all rights rests upon the recognition that they are neither given by the state, nor can they be taken away by the state. Such rights are inherent in the inviolability of the human person. History demonstrates that unless these rights are protected our society's slow, painful progress toward freedom would not have been possible.

2. The First Amendment Religious Liberty provisions lie close to the heart of the distinctiveness of the American experiment. The uniqueness of

the American way of disestablishment and its consequences have often been more obvious to foreign observers such as Alexis de Tocqueville and Lord James Bryce, who wrote that "Of all the differences between the Old world and the New, this is perhaps the most salient." In particular, the Religious Liberty clauses are vital to harnessing otherwise centrifugal forces such as personal liberty and social diversity, thus sustaining republican vitality while making possible a necessary measure of national concord.

3. The First Amendment Religious Liberty provisions are the democratic world's most salient alternative to the totalitarian repression of human rights and provide a corrective to unbridled nationalism and religious warfare around the world.

4. The First Amendment Religious Liberty provisions provide the United States' most distinctive answer to one of the world's most pressing questions in the late-twentieth century. They address the problem: How do we live with each other's deepest differences? How do religious convictions and political freedom complement rather than threaten each other on a small planet in a pluralistic age? In a world in which bigotry, fanaticism, terrorism and the state control of religion are all too common responses to these questions, sustaining the justice and liberty of the American arrangement is an urgent moral task.

5. The First Amendment Religious Liberty provisions give American society a unique position in relation to both the First and Third worlds. Highly modernized like the rest of the First World, yet not so secularized, this society — largely because of religious freedom — remains, like most of the Third World, deeply religious. This fact, which is critical for possibilities of better human understanding, has not been sufficiently appreciated in American self-understanding, or drawn upon in American diplomacy and communication throughout the world.

In sum, as much if not more than any other single provision in the entire Constitution, the Religious Liberty provisions hold the key to American distinctiveness and American destiny. Far from being settled by the interpretations of judges and historians, the last word on the First Amendment likely rests in a chapter yet to be written, documenting the unfolding drama of America. If religious liberty is neglected, all civil liberties will suffer. If it is guarded and sustained, the American experiment will be the more secure.

II. A TIME FOR REAPPRAISAL

Much of the current controversy about religion and politics neither reflects the highest wisdom of the First Amendment nor serves the best interests of the disputants or the nation. We therefore call for a critical reappraisal of the course and consequences of such controversy. Four widespread errors have exacerbated the controversy needlessly.

1. The Issue Is Not Only What We Debate, But How

The debate about religion in public life is too often misconstrued as a clash of ideologies alone, pitting "secularists" against the "sectarians"or vice versa. Though competing and even contrary world views are involved, the controversy is not solely ideological. It also flows from a breakdown in understanding of how personal and communal beliefs should be related to public life.

The American republic depends upon the answers to two questions. By what ultimate truths ought we to live? And how should these be related to public life? The first question is personal, but has a public dimension because of the connection between beliefs and public virtue. The American answer to the first question is that the government is excluded from giving an answer. The second question, however, is thoroughly public in character, and a public answer is appropriate and necessary to the well-being of this society.

This second question was central to the idea of the First Amendment. The Religious Liberty provisions are not "articles of faith" concerned with the substance of particular doctrines or of policy issues. They are "articles of peace" concerned with the constitutional constraints and the shared prior understanding within which the American people can engage their differences in a civil manner and thus provide for both religious liberty and stable public government.

Conflicts over the relationship between deeply held beliefs and public policy will remain a continuing feature of democratic life. They do not discredit the First Amendment, but confirm its wisdom and point to the need to distinguish the Religious Liberty clauses from the particular controversies they address. The clauses can never be divorced from the controversies they address, but should always be held distinct. In the public discussion, an open commitment to the constraints and standards of the clauses should precede and accompany debate over the controversies.

2. The Issue Is Not Sectarian, But National

The role of religion in American public life is too often devalued or dismissed in

public debate, as though the American people's historically vital religious traditions were at best a purely private matter and at worst essentially sectarian and divisive.

Such a position betrays a failure of civil respect for the convictions of others. It also underestimates the degree to which the Framers relied on the American people's religious convictions to be what Tocqueville described as "the first of their political institutions." In America, this crucial public role has been played by diverse beliefs, not so much despite disestablishment as because of disestablishment.

The Founders knew well that the republic they established represented an audacious gamble against long historical odds. This form of government depends upon ultimate beliefs, for otherwise we have no right to the rights by which it thrives, yet rejects any official formulation of them. The republic will therefore always remain an "undecided experiment" that stands or falls by the dynamism of its non-established faiths.

3. The Issue Is Larger Than the Disputants

Recent controversies over religion and public life have too often become a form of warfare in which individuals, motives and reputations have been impugned. The intensity of the debate is commensurate with the importance of the issues debated, but to those engaged in this warfare we present two arguments for reappraisal and restraint.

The lesser argument is one of expediency and is based on the ironic fact that each side has become the best argument for the other. One side's excesses have become the other side's arguments; one side's extremists the other side's recruiters. The danger is that, as the ideological warfare becomes self-perpetuating, more serious issues and broader national interests will be forgotten and the bitterness deepened.

The more important argument is one of principle and is based on the fact that the several sides have pursued their objectives in ways which contradict their own best ideals. Too often, for example, religious believers have been uncharitable, liberals have been illiberal, conservatives have been insensitive to tradition, champions of tolerance have been intolerant, defenders of free speech have been censorious, and citizens of a republic based on democratic accommodation have succumbed to a habit of relentless confrontation.

4. The Issue Is Understandably Threatening

The First Amendment's meaning is too often debated in ways that ignore the genuine grievances or justifiable fears of opposing points of view. This happens when the

logic of opposing arguments favors either an unwarranted intrusion of religion into public life or an unwarranted exclusion of religion from it. History plainly shows that with religious control over government, political freedom dies; with political control over religion, religious freedom dies.

The First Amendment has contributed to avoiding both these perils, but this happy experience is no cause for complacency. Though the United States has escaped the worst excesses experienced elsewhere in the world, the republic has shown two distinct tendencies of its own, one in the past and one today.

In earlier times, though lasting well into the twentieth century, there was a *de facto* semi-establishment of one religion in the United States: a generalized Protestantism given dominant status in national institutions, especially in the public schools. This development was largely approved by Protestants, but widely opposed by non-Protestants, including Catholics and Jews.

In more recent times, and partly in reaction, constitutional jurisprudence has tended, in the view of many, to move toward the *de facto* semi-establishment of a wholly secular understanding of the origin, nature and destiny of humankind and of the American nation. During this period, the exclusion of teaching about the role of religion in society, based partly upon a misunderstanding of First Amendment decisions, has ironically resulted in giving a dominant status to such wholly secular understandings in many national institutions. Many secularists appear as unconcerned over the consequences of this development as were Protestants unconcerned about their *de facto* establishment earlier.

Such *de facto* establishments, though seldom extreme, usually benign and often unwitting, are the source of grievances and fears among the several parties in current controversies. Together with the encroachments of the expanding modern state, such *de facto* establishments, as much as any official establishment, are likely to remain a threat to freedom and justice for all.

Justifiable fears are raised by those who advocate theocracy or the coercive power of law to establish a "Christian America." While this advocacy is and should be legally protected, such proposals contradict freedom of conscience and the genius of the Religious Liberty provisions.

At the same time there are others who raise justifiable fears of an unwarranted exclusion of religion from public life. The assertion of moral judgments as though they

were morally neutral, and interpretations of the "wall of separation" that would exclude religious expression and argument from public life, also contradict freedom of conscience and the genius of the provisions.

Civility obliges citizens in a pluralistic society to take great care in using words and casting issues. The communications media have a primary role, and thus a special responsibility, in shaping public opinion and debate. Words such as *public*, *secular* and *religious* should be free from discriminatory bias. "Secular purpose," for example, should not mean "non-religious purpose" but "general public purpose." Otherwise, the impression is gained that "public is equivalent to secular; religion is equivalent to private." Such equations are neither accurate nor just. Similarly, it is false to equate "public" and "governmental." In a society that sets store by the necessary limits on government, there are many spheres of life that are public but non-governmental.

Two important conclusions follow from a reappraisal of the present controversies over religion in public life. First, the process of adjustment and readjustment to the constraints and standards of the Religious Liberty provisions is an ongoing requirement of American democracy. The Constitution is not a self-interpreting, self-executing document; and the prescriptions of the Religious Liberty provisions cannot by themselves resolve the myriad confusions and ambiguities surrounding the right ordering of the relationship between religion and government in a free society. The Framers clearly understood that the Religious Liberty provisions provide the legal construct for what must be an ongoing process of adjustment and mutual give-and-take in a democracy.

We are keenly aware that, especially over state-supported education, we as a people must continue to wrestle with the complex connections between religion and the transmission of moral values in a pluralistic society. Thus, we cannot have, and should not seek, a definitive, once for all solution to the questions that will continue to surround the Religious Liberty provisions.

Second, the need for such a readjustment today can best be addressed by remembering that the two clauses are essentially one provision for preserving religious liberty. Both parts, No establishment and Free exercise, are to be comprehensively understood as being in the service of religious liberty as a positive good. At the heart of the Establishment clause is the prohibition of state sponsorship of religion and at the heart of Free Exercise clause is the prohibition of state interference with religious liberty.

No sponsorship means that the state must leave to the free citizenry the public expression of ultimate beliefs, religious or otherwise, providing only that no expression is excluded from, and none governmentally favored, in the continuing democratic discourse.

No interference means the assurance of voluntary religious expression free from governmental intervention. This includes placing religious expression on an equal footing with all other forms of expression in genuinely public forums.

No sponsorship and no interference together mean fair opportunity. That is to say, all faiths are free to enter vigorously into public life and to exercise such influence as their followers and ideas engender. Such democratic exercise of influence is in the best tradition of American voluntarism and is not an unwarranted "imposition" or "establishment."

III. A TIME FOR RECONSTITUTION

We believe, finally, that the time is ripe for a genuine expansion of democratic liberty, and that this goal may be attained through a new engagement of citizens in a debate that is reordered in accord with constitutional first principles and considerations of the common good. This amounts to no less than the reconstitution of a free republican people in our day. Careful consideration of three precepts would advance this possibility:

1. The Criteria Must Be Multiple

Reconstitution requires the recognition that the great dangers in interpreting the Constitution today are either to release interpretation from any demanding criteria or to narrow the criteria excessively. The first relaxes the necessary restraining force of the Constitution, while the second overlooks the insights that have arisen from the Constitution in two centuries of national experience.

Religious liberty is the only freedom in the First Amendment to be given two provisions. Together the clauses form a strong bulwark against suppression of religious

liberty, yet they emerge from a series of dynamic tensions which cannot ultimately be relaxed. The Religious Liberty provisions grow out of an understanding not only of rights and a due recognition of faiths but of realism and a due recognition of factions. They themselves reflect both faith and skepticism. They raise questions of equality and liberty, majority rule and minority rights, individual convictions and communal tradition.

The Religious Liberty provisions must be understood both in terms of the Framers' intentions and history's sometimes surprising results. Interpreting and applying them today requires not only historical research but moral and political reflection.

The intention of the Framers is therefore a necessary but insufficient criterion for interpreting and applying the Constitution. But applied by itself, without any consideration of immutable principles of justice, the intention can easily be wielded as a weapon for governmental or sectarian causes, some quoting Jefferson and brandishing No establishment and others citing Madison and brandishing Free exercise. Rather, we must take the purpose and text of the Constitution seriously, sustain the principles behind the words and add an appreciation of the many-sided genius of the First Amendment and its complex development over time.

2. The Consensus Must Be Dynamic

Reconstitution requires a shared understanding of the relationship between the Constitution and the society it is to serve. The Framers understood that the Constitution is more than parchment and ink. The principles embodied in the document must be affirmed in practice by a free people since these principles reflect everything that constitutes the essential forms and substance of their society — the institutions, customs and ideals as well as the laws. Civic vitality and the effectiveness of law can be undermined when they overlook this broader cultural context of the Constitution.

Notable, in this connection is the striking absence today of any national consensus about religious liberty as a positive good. Yet religious liberty is indisputably what the Framers intended and what the First Amendment has preserved. Far from being a matter of exemption, exception or even toleration, religious liberty is an inalienable right. Far from being a sub-category of free speech or a constitutional redundancy, religious liberty is distinct and foundational. Far from being simply an individual right,

religious liberty is a positive social good. Far from denigrating religion as a social or political "problem," the separation of Church and State is both the saving of religion from the temptation of political power and an achievement inspired in large part by religion itself. Far from weakening religion, disestablishment has, as an historical fact, enabled it to flourish.

In light of the First Amendment, the government should stand in relation to the churches, synagogues and other communities of faith as the guarantor of freedom. In light of the First Amendment, the churches, synagogues and other communities of faith stand in relation to the government as generators of faith, and therefore contribute to the spiritual and moral foundations of democracy. Thus, the government acts as a safeguard, but not the source, of freedom for faiths, whereas the churches and synagogues act as a source, but not the safeguard, of faiths for freedom.

The Religious Liberty provisions work for each other and for the federal idea as a whole. Neither established nor excluded, neither preferred nor proscribed, each faith (whether transcendent or naturalistic) is brought into a relationship with the government so that each is separated from the state in terms of its institutions, but democratically related to the state in terms of individuals and its ideas.

The result is neither a naked public square where all religion is excluded, nor a sacred public square with any religion established or semi-established. The result, rather, is a civil public square in which citizens of all religious faiths, or none, engage one another in the continuing democratic discourse.

3. The Compact Must Be Mutual

Reconstitution of a free republican people requires the recognition that religious liberty is a universal right joined to a universal duty to respect that right.

In the turns and twists of history, victims of religious discrimination have often later become perpetrators. In the famous image of Roger Williams, those at the helm of the Ship of State forget they were once under the hatches. They have, he said, "One weight for themselves when they are under the hatches, and another for others when they come to the helm." They show themselves, said James Madison, "as ready to set up an establishment which is to take them in as they were to pull down that which shut them out." Thus, benignly or otherwise, Protestants have treated Catholics as they were once treated, and secularists have done likewise with both.

Such inconsistencies are the natural seedbed for the growth of a *de facto* establishment. Against such inconsistencies we affirm that a right for one is a right for another and a responsibility for all. A right for a Protestant is a right for an Orthodox is a right for a Catholic is a right for a Jew is a right for a Humanist is a right for a Mormon is a right for a Muslim is a right for a Buddhist—and for the followers of any other faith within the wide bounds of the republic.

That rights are universal and responsibilities mutual is both the premise and the promise of democratic pluralism. The First Amendment, in this sense, is the epitome of public justice and serves as the golden rule for civic life. Rights are best guarded and responsibilities best exercised when each person and group guards for all others those rights they wish guarded for themselves. Whereas the wearer of the English crown is officially the Defender of the Faith, all who uphold the American Constitution are defenders of the rights of all faiths.

From this axiom, that rights are universal and responsibilities mutual, derives guidelines for conducting public debates involving religion in a manner that is democratic and civil. These guidelines are not, and must not be, mandated by law. But they are, we believe, necessary to reconstitute and revitalize the American understanding of the role of religion in a free society.

First, those who claim the right to dissent should assume the responsibility to debate: Commitment to democratic pluralism assumes the coexistence within one political community of groups whose ultimate faith commitments may be incompatible, yet whose common commitment to social unity and diversity does justice to both the requirements of individual conscience and the wider community. A general consent to the obligations of citizenship is therefore inherent in the American experiment, both as a founding principle ("We the people") and as a matter of daily practice.

There must always be room for those who do not wish to participate in the public ordering of our common life, who desire to pursue their own religious witness separately as conscience dictates. But at the same time, for those who do wish to participate, it should be understood that those claiming the right to dissent should assume the responsibility to debate. As this responsibility is exercised, the characteristic American formula of individual liberty complemented by respect for the opinions of others permits differences to be asserted, yet a broad, active community of understanding to be sustained.

Second, those who claim the right to criticize should assume the

responsibility to comprehend: One of the ironies of democratic life is that freedom of conscience is jeopardized by false tolerance as well as by outright intolerance. Genuine tolerance considers contrary views fairly and judges them on merit. Debased tolerance so refrains from making any judgment that it refuses to listen at all. Genuine tolerance honestly weighs honest differences and promotes both impartiality and pluralism. Debased tolerance results in indifference to the differences that vitalize a pluralistic democracy.

Central to the difference between genuine and debased tolerance is the recognition that peace and truth must be held in tension. Pluralism must not be confused with, and is in fact endangered by, philosophical and ethical indifference. Commitment to strong, clear philosophical and ethical ideas need not imply either intolerance or opposition to democratic pluralism. On the contrary, democratic pluralism requires an agreement to be locked in public argument over disagreements of consequence within the bonds of civility.

The right to argue for any public policy is a fundamental right for every citizen; respecting that right is a fundamental responsibility for all other citizens. When any view is expressed, all must uphold as constitutionally protected its advocate's right to express it. But others are free to challenge that view as politically pernicious, philosophically false, ethically evil, theologically idolatrous, or simply absurd, as the case may be seen to be.

Unless this tension between peace and truth is respected, civility cannot be sustained. In that event, tolerance degenerates into either apathetic relativism or a dogmatism as uncritical of itself as it is uncomprehending of others. The result is a general corruption of principled public debate.

Third, those who claim the right to influence should accept the responsibility not to inflame: Too often in recent disputes over religion and public affairs, some have insisted that any evidence of religious influence on public policy represents an establishment of religion and is therefore precluded as an improper "imposition." Such exclusion of religion from public life is historically unwarranted, philosophically inconsistent and profoundly undemocratic. The Framers' intention is indisputably ignored when public policy debates can appeal to the theses of Adam Smith and Karl Marx, or Charles Darwin and Sigmund Freud but not to the Western religious tradition in general and the Hebrew and Christian Scriptures in particular. Many of the most dynamic social movements in American history, including that of civil rights, were legitimately inspired and shaped by religious motivation.

Freedom of conscience and the right to influence public policy on the basis of religiously informed ideas are inseverably linked. In short, a key to democratic renewal is the fullest possible participation in the most open possible debate.

Religious liberty and democratic civility are also threatened, however, from another quarter. Overreacting to an improper veto on religion in public life, many have used religious language and images not for the legitimate influencing of policies but to inflame politics. Politics is indeed an extension of ethics and therefore engages religious principles; but some err by refusing to recognize that there is a distinction, though not a separation, between religion and politics. As a result, they bring to politics a misplaced absoluteness that idolizes politics, "Satanizes" their enemies and politicizes their own faith.

Even the most morally informed policy positions involve prudential judgments as well as pure principle. Therefore, to make an absolute equation of principles and policies inflates politics and does violence to reason, civil life and faith itself. Politics has recently been inflamed by a number of confusions: the confusion of personal religious affiliation with qualification or disqualification for public office; the confusion of claims to divine guidance with claims to divine endorsement; and the confusion of government neutrality among faiths with government indifference or hostility to religion.

Fourth, those who claim the right to participate should accept the responsibility to persuade: Central to the American experience is the power of political persuasion. Growing partly from principle and partly from the pressures of democratic pluralism, commitment to persuasion is the corollary of the belief that conscience is inviolable, coercion of conscience is evil, and the public interest is best served by consent hard won from vigorous debate. Those who believe themselves privy to the will of history brook no argument and need never tarry for consent. But to those who subscribe to the idea of government by the consent of the governed, compelled beliefs are a violation of first principles. The natural logic of the Religious Liberty provisions is to foster a political culture of persuasion which admits the challenge of opinions from all sources.

Arguments for public policy should be more than private convictions shouted out loud. For persuasion to be principled, private convictions should be translated into publicly accessible claims. Such public claims should be made publicly accessible for two reasons: first, because they must engage those who do not share the same private convictions, and second, because they should be directed toward the common good.

RENEWAL OF FIRST PRINCIPLES

We who live in the third century of the American republic can learn well from the past as we look to the future. Our Founders were both idealists and realists. Their confidence in human abilities was tempered by their skepticism about human nature. Aware of what was new in their times, they also knew the need for renewal in times after theirs. "No free government, or the blessings of liberty," wrote George Mason in 1776, "can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles."

True to the ideals and realism of that vision, we who sign this Charter, people of many and various beliefs, pledge ourselves to the enduring precepts of the First Amendment as the cornerstone of the American experiment in liberty under law.

We address ourselves to our fellow citizens, daring to hope that the strongest desire of the greatest number is for the common good. We are firmly persuaded that the principles asserted here require a fresh consideration, and that the renewal of religious liberty is crucial to sustain a free people that would remain free. We therefore commit ourselves to speak, write and act according to this vision and these principles. We urge our fellow citizens to do the same.

To agree on such guiding principles and to achieve such a compact will not be easy. Whereas a law is a command directed to us, a compact is a promise that must proceed freely from us. To achieve it demands a measure of the vision, sacrifice and perseverance shown by our Founders. Their task was to defy the past, seeing and securing religious liberty against the terrible precedents of history. Ours is to challenge the future, sustaining vigilance and broadening protections against every new menace, including that of our own complacency. Knowing the unquenchable desire for freedom, they lit a beacon. It is for us who know its blessings to keep it burning brightly.